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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,843	08/20/2001	Anthony J. Baerlocher	0112300-898	9181

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EXAMINER

NGUYEN, BINH AN DUC

ART UNIT PAPER NUMBER

3713

DATE MAILED: 02/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/933,843

Applicant(s)

BAERLOCHER ET AL.

Examiner

Binh-An D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 9-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The Amendment and Election filed in Paper No. 4, October 30, 2002 have been received. According to the Amendment, new claims 30 and 31 have been added.

Applicant's election of Figure 9 (claims 1-8) in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Note that, new claims 30 and 31 include limitations of none-elected Species F, G, and H, therefore, they will not be considered. Currently, claims 1-31 are pending, wherein claims 9-31 are withdrawn from consideration due to none-elected Species. Claims 1-8 are hereby examined on the merit. Acknowledgment has been made.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komeda et al. (4,978,129) in view of Vazquez, Jr. et al. (4,695,053).

Komeda et al. teaches a gaming device comprising: a display device (3); plurality of digits displayed by the display device (Figs. 1 and 2); a processor which communicates with the display device, which rearranges the digits, which causes the

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display device to display the rearranged digits and, wherein the rearrangement of said digits is one of a plurality of modifiers of said digit; the gaming device includes a modify input which communicates with the processor, wherein the digits are rearranged upon a player's selection of the modify input (Figures 3(1)-3(4)). The processor rearranges the digits when an expected value associated with the digits in the original number exceeds the original digits (number) (see column 3); the processor randomly determines when to rearrange the digits based on a probability stored in a memory device accessed by the processor; the gaming machine includes a plurality of player selectable positions displayed by the display device, wherein the processor enables the player to select the positions, associates digits with the player's selection of the positions and determines the original digit based on an order of the digits associated with the positions; a plurality of selections displayed by the display device, wherein the processor associates digits with said selections, and which enables a player to associate selections with a one's digit, a ten's digit and a hundred's digit of the original award provided to the player. See columns 1-5 and Figures 1-5.

Komeda et al. does not explicitly teach the limitation of modify an original award and provides the rearranged award to a player. Vazquez, Jr. et al., however, teaches a gaming device comprising modify an original award (player selected winning combination) and provides the rearranged award (resulted winning combination) to a player (2:1-22). See also, columns 1-6, and Figures 1-3.

Note that, regarding the limitation of a plurality of masked digits displayed by the display device (claim 7), it is notoriously well known in the gaming industry to mask

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numbers or indicia to provide excitement of a game of chance and later reveal it for final outcome or results after they are selected.

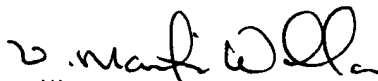
It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the method of switching digits of an original number in an electronic game of Komeda et al. with a gaming device having player selectable winning combinations, as taught by Vazquez, Jr. et al., to enhance a more interesting gaming method that allows a player to scramble digits of an original award.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

BN

  
VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER  
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